

**Effective 5/13/2014**

**31A-27a-201 Receivership court's seizure order.**

- (1) The commissioner may file in the Third District Court for Salt Lake County a petition:
  - (a) with respect to:
    - (i) an insurer domiciled in this state;
    - (ii) an unauthorized insurer; or
    - (iii) pursuant to Section 31A-27a-901, a foreign insurer;
  - (b) alleging that:
    - (i) there exists grounds that would justify a court order for a formal delinquency proceeding against the insurer under this chapter; and
    - (ii) the interests of policyholders, creditors, or the public will be endangered by delay; and
  - (c) setting forth the contents of a seizure order considered necessary by the commissioner.
- (2)
  - (a) Upon a filing under Subsection (1), the receivership court may issue the requested seizure order:
    - (i) immediately, ex parte, and without notice or hearing;
    - (ii) that directs the commissioner to take possession and control of:
      - (A) all or a part of the property, accounts, and records of an insurer; and
      - (B) the premises occupied by the insurer for transaction of the insurer's business; and
    - (iii) that until further order of the receivership court, enjoins the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner.
  - (b) A person having possession or control of and refusing to deliver any of the records or assets of a person against whom a seizure order is issued under this Subsection (2) is guilty of a class B misdemeanor.
- (3)
  - (a) A petition that requests injunctive relief:
    - (i) shall be verified by the commissioner or the commissioner's designee; and
    - (ii) is not required to plead or prove irreparable harm or inadequate remedy at law.
  - (b) The commissioner shall provide only the notice that the receivership court may require.
- (4)
  - (a) The receivership court shall specify in the seizure order the duration of the seizure, which shall be the time the receivership court considers necessary for the commissioner to ascertain the condition of the insurer.
  - (b) The receivership court may from time to time:
    - (i) hold a hearing that the receivership court considers desirable:
      - (A)
        - (I) on motion of the commissioner;
        - (II) on motion of the insurer; or
        - (III) on its own motion; and
      - (B) after the notice the receivership court considers appropriate; and
    - (ii) extend, shorten, or modify the terms of the seizure order.
  - (c) The receivership court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to commence a formal proceeding under this chapter.
  - (d) An order of the receivership court pursuant to a formal proceeding under this chapter vacates the seizure order.

- (5) Entry of a seizure order under this section does not constitute a breach or an anticipatory breach of a contract of the insurer.
- (6)
  - (a) An insurer subject to an ex parte seizure order under this section may petition the receivership court at any time after the issuance of a seizure order for a hearing and review of the basis for the seizure order.
  - (b) The receivership court shall hold the hearing and review requested under this Subsection (6) not more than 15 days after the day on which the request is received or as soon thereafter as the court may allow.
  - (c) A hearing under this Subsection (6):
    - (i) may be held privately in chambers; and
    - (ii) shall be held privately in chambers if the insurer proceeded against requests that it be private.
- (7)
  - (a) If, at any time after the issuance of a seizure order, it appears to the receivership court that a person whose interest is or will be substantially affected by the seizure order did not appear at the hearing and has not been served, the receivership court may order that notice be given to the person.
  - (b) An order under this Subsection (7) that notice be given may not stay the effect of a seizure order previously issued by the receivership court.
- (8) Whenever the commissioner makes a seizure as provided in Subsection (2), on the demand of the commissioner, it shall be the duty of the sheriff of a county of this state, and of the police department of a municipality in the state to furnish the commissioner with necessary deputies or officers to assist the commissioner in making and enforcing the seizure order.
- (9) The commissioner may appoint a receiver under this section. The insurer shall pay the costs and expenses of the receiver appointed.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session